

REMARKS

Applicants have cancelled claims 27-90 (previously "withdrawn") in addition to claim 6, claim 93, and claims 95-97, and have added new claim 98. Claims 1, 91, and 94 have been amended. As explained below, no new matter has been added.

35 U.S.C. § 112 Rejection

The Office Action dated August 4, 2009 ("Office Action") rejects claims 1-3, 6 and 91-92 under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the Examiner points to the claim language "identifying a start of a first virtual gaming session associated with the player account, wherein said start of the first virtual gaming session occurs in response to an entry of value on the one gaming machine," and states that "[i]t is not clear from the claim and the specification how the player playing with cash is associated with his account." Office Action at 2.

Applicants have amended the remaining independent claim such that all claims now only include a virtual gaming session that occurs after a player has inserted his or her card. This removes any ambiguity as to how the virtual gaming session may be "associated with" the player's account. Moreover, the Examiner has not maintained that any previously claimed virtual gaming sessions that occur after card insertion give rise to indefiniteness. Accordingly, the Applicants respectfully submit that all remaining claims satisfy the requirements of 35 U.S.C. § 112, second paragraph.

35 U.S.C. § 102 Rejection

The Office Action rejects claims 1-3 and 91-96¹ under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,142,876 to Cumbers ("Cumbers"). The Applicants have amended each pending independent claim and respectfully submit that the claims are allowable as they now stand.

The Cumbers reference is directed to a gaming system which uses facial recognition data in order to assist with player tracking. *See* Cumbers at Abstract; 2:54-3:19. In part, Cumbers is more specifically directed to a system that allows a player to play a game (e.g., a slot machine) without having an account, and then associates any points acquired during that gaming session with an account that the player is later assigned. *See id.* at 3:49-55. The Cumbers system accomplishes this by scanning (at a gaming device) the face of a player who has not yet been assigned a player account, and storing any gaming data (e.g., acquired points) in a file that is associated with the facial recognition data of that player. *See id.* at 6:10-49. If that player later signs up for an account, the system scans the player's face again, and as a result has sufficient indicia of identity to associate that player's earlier gaming activity (acquired points) with his or her new account. *See id.* at 7:36-45. Thus, Cumbers requires obtaining some indicia of identification (i.e., facial recognition data corresponding to a particular player) in order to assign points acquired during game play to the correct account, whether that account currently exists or is created at some future time. The gaming activity of truly anonymous players (having no identification card with associated data stored in the system, and having no facial recognition data stored in the system) is not tracked.

Conversely, Applicants' claims are generally directed to the tracking of a player's gaming

¹ The Office Action lists claims 6 and 97 as being anticipated, but only discusses those claims in

activity that occurs after the player's card has been removed (i.e., after a "regular gaming session"). *See* Application at ¶¶ 11-13. Gaming activity is associated with the account of the player who has removed his or her card based on factors other than any indicia of the player's identity. In particular, the gaming activity following card removal can still be associated with the player's account based on factors that include value remaining on a gaming machine and/or a game being in progress, (*id.* at ¶ 73), as opposed to any identifying data (e.g., facial recognition data). As a result, player tracking can occur even when a player card is not inserted without requiring complex and expensive facial recognition devices to be incorporated into each and every gaming machine of the system, and without expending the significant time, processing power, and bandwidth that is required by a facial recognition device.

As amended, the claims reflect this difference between the presently claimed invention and the prior art. The claims require a first virtual gaming session to begin "subsequent to the removal of the player card from the one gaming machine," and "in response to an indication that the removal of the player card occurred while a game was in progress on the one gaming machine, while credits were available for play on the one gaming machine, or both." Cumbers does not use such triggers to track player gaming activity outside the time when the player's card is inserted. Instead, as noted above, Cumbers relies on expensive and complex facial recognition capabilities to track such gaming activities.

The claims also require that the virtual gaming session end "in response to either re-insertion of the player card into the one gaming machine or all credits left over from the regular gaming session being spent." Again, Cumbers does not use such triggers, and instead relies on

connection with an obviousness rejection under 35 U.S.C. § 103.

facial recognition capabilities to know when gaming activity (outside the card insertion period) should no longer be associated with a player's account.

Moreover, Cumbers does not teach that gaming activity of a player is tracked during any gaming session of the player that occurs after the player's card is removed from the gaming machine. Rather, Cumbers only discusses the situation in which a player's activity is tracked before signing up for tracking and before receiving a player identification card. *See* Cumbers at 3:49-55, 6:10-49, 7:31-45.

The present amendments also do not add any new matter. That the start of a first virtual gaming session be identified "subsequent to the removal of the player card from the one gaming machine" is supported by at least paragraph 71 and Figures 4A-4B of the Application. That the start of a first virtual gaming session occurs "in response to an indication that the removal of the player card occurred while a game was in progress on the one gaming machine, while credits were available for play on the one gaming machine, or both" is supported by at least paragraph 73 of the Application.

That the end of the first virtual gaming session occurs in response to "either re-insertion of the player card into the one gaming machine or all credits left over from the regular gaming session being spent" is supported by at least paragraphs 73 (virtual gaming session may end when credit meter goes to zero) and 91-93 (virtual gaming session may end when player re-inserts card).

The new claim added by amendment, claim 98, requires that "the second activity data" associated with the second regular gaming session of claim 94 "is combined with the third activity data and transmitted as combined session data at the end of the second regular gaming session."

This is supported by at least paragraph 91 and Figure 4A (combined session data transmitted at end of regular gaming session).

For the reasons discusses above, Applicants respectfully submit that independent claim 1 is allowable. Claims 2-3, 92, 94, and 98 depend from claim 1 and are therefore allowable at least for the reasons that claim 1 is allowable. Claims 91, 93, and 95-96 have been cancelled and their rejection is therefore moot.

35 U.S.C. § 103 Rejection

The Office Action rejects claims 6 and 97 under 35 U.S.C. § 103(a) as being unpatentable over Cumbers. Claims 6 and 97 have been cancelled and their rejection is therefore moot.

CONCLUSION

In view of the above, reconsideration of this application is respectfully requested. Applicants believe that claims 1-3, 92, 94, and 98 are allowable over the art of record, and a Notice of Allowance is respectfully solicited.

If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited and encouraged to contact the Applicants at the number below.

Although no fees are believed to be due at this time, the Commissioner is authorized to charge any necessary fees (or credit any overpayment) to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Application No. 10/720,931
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Respectfully submitted,
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